

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GARY L. NAPIER, JR.,

Defendant.

8:04CR316

ORDER

Defendant Gary L. Napier, Jr. appeared before the court on July 9, 2018 on a Third Amended Petition for Offender Under Supervision [373]. The court will dismiss the Petition for Offender Under Supervision [347], Amended Petition for Offender Under Supervision [354] and Second Amended Petition for Offender Under Supervision [369] pursuant to the government's oral motion and proceed with the Third Amended Petition [373]. The defendant was represented by Assistant Federal Public Defender Richard H. McWilliams, and the United States was represented by Assistant U.S. Attorney Gregory D. Artis, Jr.

Through his counsel, the defendant waived his right to a probable cause hearing on the Petition pursuant to Fed. R. Crim. P. 32.1(b)(1). I find that the Petition alleges probable cause and that the defendant should be held to answer for a final dispositional hearing before Chief Judge Smith Camp.

The government moved for detention. Through counsel, the defendant declined to present any evidence on the issue of detention and otherwise waived a detention hearing. Since it is the defendant's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a danger to the community nor a flight risk, the court finds the defendant has failed to carry his burden and that he should be detained pending a dispositional hearing before Chief Judge Smith Camp.

IT IS ORDERED:

1. The Petition for Offender Under Supervision [347], Amended Petition for Offender Under Supervision [354] and Second Amended Petition for Offender Under Supervision [369] are dismissed on the oral motion of the government.

2. A final dispositional hearing will be held before Chief Judge Smith Camp in Courtroom No. 2, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, on July 19, 2018 at 9:00 a.m. The defendant must be present in person.

3. The defendant, Gary L. Napier, Jr., is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

4. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

5. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Dated this 10th day of July, 2018.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge